IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 29468 of 2007(G)

PETITIONERS:
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1. ABDUL KHADER, S/O. K.T.KUNHIMON,
AGED 56 YEARS, RESIDING AT NIYAS VILLA,
ORUMANAYUR AMSOM AND DESOM, CHAVAKKAD TALUK.

2. SMT. SAFIYA, W/O. ABDUL KHADER,
AGED 44 YEARS, RESIDING AT NIYAS VILLA,
ORUMANAYUR AMSOM AND DESOM, CHAVAKKAD TALUK.

3. MOHAMMEDKUTTY, S/O.K.T. HAMEED,
AGED 52 YEARS, RESIDING AT RAIM MARAKARVEETTIL,
KADAPPURAM AMSOM AND DESOM, CHAVAKKAD TALUK.

4. SMT. SUBAIDA, W/O.SRI.MOHAMMADKUTTY,
AGED 40 YEARS, RESIDING AT RAIM MARAKARVEETTIL,
KADAPPURAM AMSOM AND DESOM, CHAVAKKAD TALUK.

BY ADV. SMT.ARCHANA NARAYANAN

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE,
ERNAKULAM DISTRICT.

2. CIRCLE INSPECTOR OF POLICE,
ERNAKULAM TOWN SOUTH POLICE STATION, ERNAKULAM.

3. THOMAS J.KALAPURACKAL,
M/S. ROOFIT INDUSTRIES LTD., REGIONAL OFFICE AT
2ND FLOOR, SOUTH SQUARE BUILDING,PANAMPALLY NAGAR,
COCHIN-36.

BY GOVERNMENT PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 29468 OF 2007-G

Dated 4th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are the owners of a commercial complex. Two rooms bearing Nos.33 and 34 in the said building were in the possession of a company called "Roofit Industries", which is a public limited company registered in Maharashtra. There was a proposal to sell those rooms to the said company. While so, the said company stopped its operation in Kerala. It is submitted, it is wound up also. Almost all the employees of the company deserted its office housed in the above said rooms. But, the 3rd respondent is holding over. He filed O.S.No.458/2005, seeking permanent prohibitory injunction against the owners of the rooms from evicting him. The said suit was dismissed by Ext.P1 judgment. Even thereafter, the 3rd respondent is not vacating the rooms. So, the petitioners moved the police, seeking protection to take possession of the said rooms by throwing out the 3rd respondent. Since no protection was forthcoming, this writ petition is

filed, seeking the following reliefs:

> "(i) To give direction to the 1st and 2nd respondents to give adequate police protection to the life of the petitioners for taking possession of the plaint schedule rooms;
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> (ii) To issue a writ of mandamus commanding the 1st and 2nd respondents to remove by force the 3rd respondent from causing any obstruction when the petitioners attempt to take possession of the plaint schedule rooms."

2. Going by the above prayers, we feel that the police cannot be conferred any jurisdiction to act as the musclemen of the landlords and throw out the tenant or its employees. The petitioners have to take recourse to the due process of law for the same.

In the result, the writ petition fails and it is dismissed without prejudice to the contentions of the petitioners and their right to move other forums for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/